

forenoon of the 28th day of October 1936, at the same place and before the same trial examiner.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2956—Filed, October 16, 1936; 12:54 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of October A. D. 1936.

[File No. 32-37]

IN THE MATTER OF CUMBERLAND COUNTY POWER AND LIGHT COMPANY

ORDER GRANTING EXEMPTION FROM PROVISIONS OF SECTION 6 (A) OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Cumberland County Power and Light Company having filed with the Commission an application, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale by applicant of \$9,500,000 principal amount of its First Mortgage Bonds, 3½% Series, due October 1, 1966, and of not exceeding 10,000 shares of its Preferred Capital Stock, 5½% Cumulative, having a par value of \$100 per share; such application having been amended; a hearing thereon having been held after appropriate notice; the record in this matter having been examined; and the Commission having filed its findings herein;

It is ordered that the issue and sale of the aforesaid securities, in accordance with the representations of such application be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, upon condition, however, that such issue and sale shall be made in all respects in compliance with the terms and conditions set forth in the order issued by the Public Utilities Commission of Maine, dated October 12, 1936, which order expressly authorized such issue and sale.

It is further ordered that within 10 days after any issue or sale of any of said securities, the applicant shall file with this Commission a certificate of notification showing that such issue or sale has been effected in accordance with the condition imposed by this order and in accordance with the representations of such application.

It is further ordered that if said authorization by the aforesaid State commission as to the aforesaid securities shall be revoked or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2953—Filed, October 16, 1936; 12:53 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of October A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE EXCHANGE-MILLS FARM FILED ON SEPTEMBER 25, 1936, BY SOUTHWEST ROYALTIES CO., RESPONDENT

ORDER TERMINATING PROCEEDING AFTER AMENDMENT

The Securities and Exchange Commission, finding that the offering sheet filed with the Commission, which is the subject of this proceeding, has been amended, so far as necessary, in accordance with the Suspension Order previously entered in this proceeding;

It is ordered, pursuant to Rule 341 (d) of the Commission's General Rules and Regulations under the Securities

Act of 1933, as amended, that the amendment received at the office of the Commission on October 8, 1936, be effective as of October 8, 1936; and

It is further ordered, that the Suspension Order, Order for Hearing, and Order Designating a Trial Examiner, heretofore entered in this proceeding, be and the same hereby are, revoked and the said proceeding terminated.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2958—Filed, October 16, 1936; 12:54 p. m.]

Tuesday, October 20, 1936

No. 156

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REGULATIONS GOVERNING THE AUTHENTICATION OF CERTIFIED COPIES OF FOREIGN PUBLIC RECORDS, THE MANNER OF EXECUTING AND RETURNING COMMISSIONS BY CONSULAR AND DIPLOMATIC OFFICERS IN CRIMINAL CASES, AND SCHEDULES OF FEES AND COMPENSATION ALLOWABLE IN SUCH CASES

By virtue of and pursuant to the authority vested in me by the act approved June 20, 1936, entitled "An Act Relating to the admissibility in evidence of certain writings and records made in the regular course of business" (Public, No. 734, 74th Cong.), and by section 1752 of the Revised Statutes (U. S. C., title 22, sec. 132), I hereby prescribe the following regulations governing the authentication of certified copies of documents of record or on file in a public office of a foreign country or a political subdivision thereof, the manner in which consular or diplomatic officers shall execute and return commissions issued in criminal cases under the provisions of the said act of June 20, 1936, and schedules of fees and compensation allowable in such cases.

Section 482A of the Consular Regulations is prescribed as follows:

"428A. *Certification of foreign public documents.*—Any consular officer of the United States is authorized to authenticate a certified copy of any document of record or on file in a public office of the foreign country in which he resides, or of a political subdivision thereof, by a certificate under the seal of his office certifying that such document has been certified by the lawful custodian of such document. (Sec. 6, act of June 20, 1936.)"

Section 489 of the Consular Regulations is amended to read as follows:

"CIVIL CASES

"489. *Commission to take testimony in civil cases.*—When a court in the United States appoints a consular officer commissioner to take testimony in a foreign country for the use of that court, the commission usually is accompanied by interrogatories and full instructions which the consular officer must carefully follow. The consular officer acts both in his official consular capacity and as an officer of the court which issues the commission. (22 U. S. C. §§ 98, 131.)

"The charges in such cases are official and must be in strict accordance with the Tariff of United States Consular Fees. (22 U. S. C. § 127.) When it is necessary to insure payment of such fees, the consular officer is authorized to retain the papers committed to him in connection with such service until the prescribed fees, for which he is responsible to the Government, have been paid. (22 U. S. C. § 93.)"

Sections 489A to 489T, inclusive, of the Consular Regulations are prescribed as follows:

"CRIMINAL CASES

"489A. *Purposes of and compliance with commission.*—Any book, paper, statement, record, account, writing, or other document, or any portion thereof, of whatever character and in whatever form, as well as any copy thereof equally with the original, which is not in the United States (hereinafter referred to as a foreign document) shall, when

duly certified as provided in section 489F, be admissible in evidence in any criminal action or proceeding in any court of the United States if the court shall find, from all the testimony taken with respect to such foreign document pursuant to a commission executed as hereinafter provided, that such document (or the original thereof in case such document is a copy) was made in the regular course of any business, and that it was the regular course of such business to make such document. The term 'business' shall include business, profession, occupation, and calling of every kind. (Secs. 1-2, act of June 20, 1936.)

"For the purpose of determining whether any foreign documents sought to be used in any criminal action or proceeding in any court of the United States are genuine, and whether the requirements above set forth are satisfied with respect to any such document (or the original thereof in case such document is a copy), the court may issue a commission to take the testimony of any witness in a foreign country either on oral or written interrogatories, or on interrogatories partly oral and partly written. (Sec. 3 (a), act of June 20, 1936.)

"When the court shall issue a commission addressed to a consular officer (hereinafter referred to as the commissioner) for the purposes aforesaid, the commissioner shall thoroughly acquaint himself with the powers vested in him by virtue of the commission and with the instructions contained therein, and, in executing and returning such commission shall be governed by such instructions and by these regulations. Specific instructions contained in such a commission as to the manner of executing and returning that commission shall be followed although they are not in accord with the general directions contained in these regulations. (Sec. 4, act of June 20, 1936.)

"489B. *Disqualification of commissioner.*—Any commissioner who is interested in the outcome of the action or proceeding in connection with which the commission issued, or who has participated in the prosecution of such action or proceeding, whether by investigations, preparation of evidence, or otherwise, or who directly or indirectly bears to any party to such action or proceeding such a relation by blood or otherwise as would warrant a presumption of bias or prejudice in favor of or against such party, may be disqualified from executing the commission upon his own motion. Upon receipt of a commission, the commissioner shall forthwith determine whether he has reason to believe that he is subject to disqualification for any of the reasons above stated. If he so determines, he shall forthwith communicate his motion to disqualify himself, together with the grounds upon which he bases such motion, directly to the clerk of the court from which the commission issued. Upon receipt of notice from the clerk that his motion has been allowed, he shall forthwith forward the commission under seal to the consular officer named in the commission, or in the notice, as alternate commissioner. Upon receipt of notice that his motion has been disallowed, he shall proceed to execute and return the commission as if his motion had not been made. (Sec. 3 (b), act of June 20, 1936.)

"489C. *Selection of attorneys.*—Any party to the action or proceeding who has selected an attorney to represent him at the execution of a commission may communicate such selection, or may communicate a list of attorneys with his order of preference stated, to the commissioner, and the commissioner shall attempt, on behalf of such party, to obtain the services of such attorney or one of such attorneys, upon such terms as are prescribed by the party. At the request of any party to the action or proceeding, the Department of State shall submit a list of reputable attorneys in the locality where the commission is to be executed, together with a brief statement of their respective qualifications. (Sec. 3 (a), act of June 20, 1936.)

"489D. *Request for attendance of witnesses or for records.*—The commissioner shall, at the request of any party to the action or proceeding, request witnesses, whose testimony is sought, to appear before him, or request designated persons to supply to him, or to the party making the request,

records or other documents (sec. 489A) in their hands, or copies thereof.

"489E. *Examination in presence of commissioner; recess.*—The commissioner shall be present throughout the examination of witnesses, but may recess the examination for such times and reasons as he may deem proper.

"489F. *Oath of interpreter or translator.*—If the services of an interpreter are needed, the Commissioner may act as such, or if he so desires, or if any party or his attorney so requests, he shall employ one qualified to act in that capacity. (Sec. 4, act of June 20, 1936.) The commissioner shall administer to any interpreter so employed an oath substantially in the following form, or in an equivalent form used in the country where the commission is executed:

"You do solemnly swear that you know the English and \_\_\_\_\_ languages and that you will truly and impartially interpret the oath and interrogatories to be administered to \_\_\_\_\_, a witness now to be examined, out of the English into the \_\_\_\_\_ language, and that you will truly and impartially interpret the answers of the said \_\_\_\_\_ thereto out of the \_\_\_\_\_ language into the English language. So help you God.

"The commissioner may, when necessary, likewise act as, or employ, a translator and shall administer to a translator so employed an oath in form similar to that prescribed above.

"489G. *Transcription of testimony and oath of stenographer.*—The commissioner shall determine from each witness whether such witness wishes to answer interrogatories put to him orally or personally to reduce his answers to writing in English. If the witness elects to answer orally, the commissioner may himself reduce the answers to writing, either by pen and ink, typewriter, or shorthand notes later to be transcribed into typewriting. If he so desires, or if any party or his attorney so requests, the commissioner shall employ a stenographer who shall reduce the answers to writing, either by pen and ink, typewriter, or shorthand notes later to be transcribed into typewriting. (Sec. 4, act of June 20, 1936.) The commissioner shall administer to any stenographer so employed an oath substantially in the following form, or in an equivalent form used in the country where the commission is executed:

"You do solemnly swear that you will truly and impartially reduce to writing (or take and transcribe) the testimony of \_\_\_\_\_, a witness now to be examined. So help you God.

"489H. *Oath of witness.*—The commissioner shall administer to each witness before examination an oath substantially in the following form, or in an equivalent form used in the country where the commission is executed:

"You do solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories and cross-interrogatories now to be put to you. So help you God.

(Sec. 4, act of June 20, 1936.)

"489I. *Affirmations.*—If any interpreter (or translator), stenographer, or witness objects to being sworn, the commissioner shall substitute for the oath an affirmation substantially in the following form, or in an equivalent form used in the country where the commission is executed:

"You do solemnly, sincerely, and truly declare and affirm, under the pains and penalty for perjury, that . . . (here substitute proper wording from appropriate oath, omitting the words 'So help you God').

(1 U. S. C. § 1.)

"489J. *Examination as to personal knowledge.*—The commissioner may at any time during the examination of a witness propound such inquiries as may be necessary to satisfy himself that the witness is, or is not, testifying of his personal knowledge of the subject matter of the examination.

The commissioner shall have noted in the transcript of testimony the fact that the witness at a particular time referred to notes, papers, or other documents, and the commissioner's opinion as to whether the witness was using such notes, papers, or other documents to refresh his memory or for the sake of testifying to matters not then of his personal knowledge. The commissioner shall have noted in the transcript of testimony that the witness conferred with counsel before answering any interrogatory, and shall request the witness not to leave his presence during the examination. Failure to comply with the commissioner's request shall be noted in the transcript. (Sec. 4, act of June 20, 1936.)

"489K. *Written interrogatories.*—Where the examination is conducted upon written interrogatories, the interrogatories shall not be repeated in the transcript but an appropriate reference to each interrogatory shall be inserted preceding the answer of the witness. The interrogatories shall be put to the witness by the commissioner separately and in order, and the answer to each interrogatory shall be recorded. All of the written interrogatories shall be put to the witness even though, at some point during the examination, the witness disclaims further knowledge of the subject.

"489L. *Oral interrogatories.*—Where the examination is conducted upon oral interrogatories, the direct examination (by the counsel representing the party on whose application the commission issued) shall be first completed, without interruption except in the form of an objection by opposing counsel. Cross-examination by opposing counsel under similar conditions may then be conducted and may be followed by re-direct and re-cross examinations until the examination is completed. The commissioner shall endeavor to restrain colloquies between counsel or attempts on the part of counsel to intimidate or mislead witnesses.

"489M. *Written and oral interrogatories.*—When counsel for all of the parties attend the examination of any witness, and the examination of the witness is upon written interrogatories, the commissioner shall, all counsel having consented thereto, permit oral examination of the witness following the close of the examination upon written interrogatories. The oral examination shall be conducted in the same manner and order as if not preceded by an examination upon written interrogatories. (Sec. 4, act of June 20, 1936.)

"489N. *Objections.*—When counsel objects to an interrogatory, answer, or other matter for any reason, the commissioner shall have noted in the transcript only the objection and the reasons stated therefor. Colloquies between counsel shall not be included in the transcript. The commissioner shall not pass upon any objection made, but shall request the witness to answer every interrogatory even though an objection is made to it. Refusal of any witness to answer an interrogatory put to him shall be noted in the transcript together with the reason, if any, given by the witness for his refusal.

"489O. *Transcripts.*—The transcript shall be prepared in question-and-answer form; never in narrative form. It shall be securely attached to the document or documents to which the testimony contained therein pertains. The transcript shall then be read to or by the witness in the presence of the commissioner, and any corrections which the witness desires to make in his testimony shall be noted in the transcript. The witness shall then be requested to subscribe each page of the transcript and of the document or documents, and to initial in the margin each correction in the transcript made at his request. (Sec. 4, act of June 20, 1936.)

"489P. *Commissioner's return.*—The caption of the commissioner's return shall be in the precise form used in the commission. The return shall state the names of the witnesses examined; the name of the interpreter (or translator), if any was employed; the name of the stenographer, if any was employed; the name or names of counsel present at the examination; that the commissioner was not subject to disqualification under the provisions of section 3 (b) of the act of June 20, 1936; that the commissioner has carefully conformed to the instructions in the commission and to these regulations; that, on the basis of all the testimony taken

before him, each document pertaining to which testimony was taken is, or is not, in his opinion, genuine (sec. 489A); and such other facts as he may deem necessary to satisfy the court that he has faithfully executed its commission. The return shall be signed by the commissioner and he shall affix thereto the seal of his office. If the commission does not accurately set forth the name or title of the commissioner he shall make a notation to that effect in the return after his signature, and he shall also sign the return according to the designation in the commission. (Sec. 5, act of June 20, 1936.)

"489Q. *Executed commission returned to court.*—The transcripts of testimony, documents, and return of the commissioner shall be securely attached to the commission, wrapped, and transmitted by mail to the clerk of the court from which the commission issued in the same manner in which the commissioner prepares and transmits his official despatches to the Government. (Sec. 5, act of June 20, 1936.)

"489R. *Consular fees and expenses.*—(a) *Fees.*—The Tariff of United States Consular Fees is applicable to services rendered under the act of June 20, 1936, and these regulations, except that when the consular officer acts as interpreter or translator he shall make no charge for such services as interpreter or translator. The fees shall be paid by the party or parties who applied for the commission unless the commission is accompanied by an order of court that all fees, compensation, and other expenses authorized by these regulations are chargeable to the United States under section 7 (b) of the act of June 20, 1936. (Sec. 7 (a), act of June 20, 1936.)

"(b) *Expenses.*—Actual and necessary expenses incurred by a consular officer in connection with the execution of a commission issued under the provisions of the act of June 20, 1936, and these regulations, including compensation paid to a stenographer, shall be paid by the same party or parties to whom consular fees are chargeable under subdivision (a) of this section.

"When travel is performed by the consular officer in connection with the execution of such a commission, travel and *per diem* expenses shall be paid in accordance with the Standardized Government Travel Regulations and the Department's supplement thereto.

"489S. *Compensation allowable.*—(a) *Witnesses.*—Each witness whose testimony is obtained shall be entitled to receive compensation at the rate of \$5 a day for each day of attendance, plus 5 cents a mile for going from his place of residence or business to the place of examination, and returning, by the shortest feasible route. When, however, it is necessary to procure the attendance of a witness on behalf of the United States or an indigent party, an officer or agent of the United States may negotiate with the witness to pay compensation at such higher rate as may be approved by the Attorney General, plus the mileage allowance stated above. The compensation and mileage of each witness shall be paid by the party, or parties, applying for the commission unless the commission is accompanied by an order of court that all fees, compensation, and other expenses authorized by these regulations are chargeable to the United States under section 7 (b) of the act of June 20, 1936. (Secs. 7-3, act of June 20, 1936.)

"(b) *Counsel.*—Each Counsel who represents a party to the action or proceeding in the examination before the commissioner shall receive compensation for each day of attendance at a rate of not less than \$5 a day and not more than \$25 a day, as agreed between him and the party whom he represents, plus such actual and necessary expenses as may be allowed by the commissioner upon verified statements filed with him. If the commission is issued on application of the United States, the compensation and expenses of counsel representing each party are chargeable to the United States. If the commission is issued on application of any other party, the compensation and expense of counsel shall be paid by the party whom such counsel represents, unless the commission is accompanied by an order of court that all fees, compensation, and other expenses authorized by

these regulations are chargeable to the United States under section 7 (b) of the act of June 20, 1936. (Secs. 7-8, act of June 20, 1936.)

"(c) *Interpreters and translators.*—Each interpreter and translator employed by the commissioner under these regulations shall receive an allowance of \$5 a day, plus 5 cents a mile for going from his place of residence or business to the place of examination, and returning, by the shortest feasible route. The compensation and mileage of interpreters and translators shall be chargeable to the United States. (Secs. 7-8, act of June 20, 1936.)

"489T. *Payment of fees, compensation, and expenses.*—Witnesses, counsel, interpreters, and translators shall be paid, in accordance with section 489S, by the commissioner at the conclusion of their services. Other expenses authorized by these regulations shall be paid by the commissioner as they are incurred.

"*When chargeable to the United States.*—When it appears that the commission was issued on application of the United States or when the commission is accompanied by an order of court that all fees, compensation, and other expenses authorized by these regulations are chargeable to the United States under section 7 (b) of the act of June 20, 1936, the commissioner shall execute the commission without charge for his services as commissioner in connection therewith. He shall pay witnesses, counsel, interpreter, or translator, and other expenses authorized by these regulations from the proceeds of a separate draft which he shall be authorized to draw on the Secretary of State, and he shall forthwith render a separate detailed account of such payments, supported by properly receipted vouchers, to the Department of State. The Department of State shall be reimbursed for the amount of such payments by the Department of Justice.

"*When chargeable to other parties.*—Whenever fees, compensation, and other expenses authorized by these regulations are chargeable to any party other than the United States, the commissioner shall be instructed by the Department of State to undertake the execution of the commission only if such party deposits with the Department of State, in advance, an amount, to be set by the court, apparently adequate to defray all fees, compensation, and other expenses authorized by these regulations. If the amount of the deposit is later found to be insufficient, the commissioner shall so notify the Department of State and shall retain the commission and other papers until he is notified by the Department that a sufficient amount has been deposited. If the amount of the deposit exceeds the aggregate amount of fees, compensation, and other expenses authorized by these regulations, the Department of State shall return the excess to the party, or parties, entitled thereto.

"The commissioner shall pay witness, counsel, interpreter, translator, and other expenses authorized by these regulations from the proceeds of a separate draft which he shall be authorized to draw on the Secretary of State, and he shall forthwith render a separate detailed account of such payments, supported by properly receipted vouchers, to the Department of State."

Chapter XIII of the Instructions to Diplomatic Officers of the United States is hereby amended by adding after section 17 the following sections:

"XIII-18. *Commission to take testimony.*—Whenever a court issues a commission to take testimony for use in determining the admissibility in evidence of certain writings and records made in the regular course of business, under the provisions of the act of Congress approved June 20, 1936 (Public No. 734, 74th Cong.), and finds that a consular officer of the United States is not conveniently located with respect to the place where the testimony of witnesses is to be taken, or that the appropriate consular officer is disqualified under section 3 (b) of the said act to execute the commission, it shall in such case be executed by any diplomatic officer to whom the commission is addressed. In the execution of such a commission, the diplomatic officer shall conform to the procedure prescribed for consular officers and shall collect fees and pay compensation and expenses in accordance with sections 489A to 489T of the Consular Regulations of the United States. (Sec. 3 (c), act of June 20, 1936.)

"XIII-19. *Certification of foreign public documents.*—Any diplomatic officer of the United States is authorized to authenticate a certified copy of any document of record or on file in a public office of the foreign country in which he resides, or of a political subdivision thereof, by a certificate under the seal of his office certifying that such document has been certified by the lawful custodian of such document. (Secs. 3 (c) and 6, act of June 20, 1936.)"

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
October 15, 1936.

[No. 7470]

[F. R. Doc. 2367—Filed, October 17, 1936; 10:21 a. m.]

#### EXECUTIVE ORDER

GAGING STATION SITE RESERVE NO. 2 SANTA YSABEL CREEK

#### California

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, 37 Stat. 497, and subject to valid existing rights, it is ordered that the following-described land be, and it is hereby, temporarily withdrawn from settlement, location, sale, or entry, and reserved for the use of the Interior Department as a gaging station site:

SAN BERNARDINO MERIDIAN

T. 12 S., R. 2 E., sec. 20, NE¼ NW¼.

This order shall remain in full force and effect unless and until revoked by the President or by act of Congress.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
October 15, 1936.

[No. 7471]

[F. R. Doc. 2365—Filed, October 17, 1936; 10:21 a. m.]

#### TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 48575]

WHEAT FLOUR—ABOLITION OF CUBAN CONSUMPTION TAX

TREASURY DECISIONS 46207 AND 46625—(9) REVOKED AS OF  
SEPTEMBER 3, 1936

#### To Collectors of Customs and Others Concerned:

Reference is made to flour manufactured in customs bonded manufacturing warehouses in the United States from imported wheat and withdrawn for exportation to Cuba.

Reference is also made to an internal consumption tax of one-half cent per pound imposed by Cuba on all imported wheat flour under a Cuban law of July 29, 1932 (which became effective on August 5, 1932), and to a 30 per cent reduction of such tax allowed by Cuba in the case of wheat flour the product of the soil or industry of the United States. The 30 per cent reduction was allowed by Cuba under the provisions of its reciprocity treaty with the United States of December 11, 1902 (33 Stat. 2138), and this allowance continued by it, under the provisions of its trade agreement with the United States of August 24, 1934 (49 Stat. Part 2, Executive Agreements, page 80), in the case of flour produced in the United States from imported wheat.

The trade agreement, supra, which became effective on September 3, 1934, contained the following provision (Note II to Item 256-A, Schedule 1):

Within a period of not more than two years from the date on which this agreement becomes effective the consumption tax on imported wheat flour of ½ cent per pound established by the law of July 29, 1932, will be abolished.

Recently, the Department of State, Washington, D. C., advised the Department to the effect that, through circular No. 87 issued on July 14, 1936, by the Director General of Customs of Cuba, and published in extraordinary edition No. 261 of the Official Gazette of Cuba of July 21, 1936, the above-mentioned consumption tax was abolished as to wheat flour produced in the United States, effective as of September 3, 1936.

Further advice has since been received from the Department of State to the effect that a decree, signed by the Secretary of the Treasury of Cuba on September 14, 1936, abolished the consumption tax as to wheat flour produced in all countries, retroactive to September 3, 1936, and that circular No. 108 issued on September 17, 1936, by the Director General of Customs of Cuba, quotes the said decree and instructs Cuban collectors of customs to be guided accordingly.

In view of this advice, Treasury Decisions 46207 and 46625-(9) of February 17 and August 21, 1933, respectively, authorizing you, in the case of flour produced in customs bonded manufacturing warehouses from imported wheat and withdrawn for exportation to Cuba, to assess a duty on the imported wheat equal to the 30 per cent reduction of the consumption tax allowed by Cuba, are hereby revoked as of September 3, 1936. Withdrawals made on or after that date for exportation may, therefore, be liquidated free of such duty.

Withdrawals made before September 3, 1936, for exportation, if not yet liquidated, may also be liquidated free of such duty in cases where the flour covered by the withdrawal was declared (entered) in Cuba on or after September 3, 1936, for consumption, provided that the party by whom the withdrawal was made shall furnish you an official certificate of the customs officer in charge at the port in Cuba where the flour was declared (entered) for consumption showing the date on which it was so declared (entered) and certifying that the consumption tax has not been, and will not be, collected thereon.

[SEAL]

J. H. MOYLE,  
*Commissioner of Customs.*

Approved, October 14, 1936.

WAYNE C. TAYLOR,  
*Acting Secretary of the Treasury.*

[F. R. Doc. 2963—Filed, October 17, 1936; 9:33 a. m.]

## Bureau of Internal Revenue.

[Regulations 96]

### CLAIMS FOR REFUND UNDER TITLE VII OF THE REVENUE ACT OF 1936 OF TAXES PAID UNDER THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

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#### INTRODUCTORY

These regulations deal with the procedure to be followed in filing claims for refund of amounts paid or collected as tax under the provisions of the Agricultural Adjustment Act, as amended. Such claims are subject to the provisions of Title VII of the Revenue Act of 1936, approved June 22, 1936.

Chapter I defines terms that are used frequently in the Revenue Act of 1936 and in these regulations.

Chapter II deals with conditions on allowance of refunds applicable to all claims.

Chapter III deals with refund of floor stocks tax.

Chapter IV deals with refund of compensating tax.

Chapter V deals with refund of "custom processing tax."

Chapter VI deals with refund of processing tax.

Chapter VII contains miscellaneous administrative provisions.



## CHAPTER I

## DEFINITIONS

## Section 913 of the Act

SEC. 913. *Definitions.*—When used in this title—

(a) The term "tax" means a tax or exaction denominated a "tax" under the Agricultural Adjustment Act, and shall include any penalty, addition to tax, additional tax, or interest applicable to such tax.

(b) The term "processing tax" means any tax or exaction denominated a "processing tax" under the Agricultural Adjustment Act but shall not include any amount paid or collected as tax with respect to the processing of a commodity for a customer for a charge or fee.

(c) The term "commodity" means any commodity, prior to processing of a type with respect to the processing of which a processing tax was imposed under the Agricultural Adjustment Act.

(d) The term "article" means the product which is obtained by processing a commodity, and includes the product obtained by further manufacture or by combination with other materials.

(e) The term "refund" includes any recovery, recoupment, set-off, credit, or counterclaim.

(f) The term "Agricultural Adjustment Act" means the Agricultural Adjustment Act as originally enacted and the amendments thereto adopted prior to January 6, 1936.

ARTICLE 101. *Definitions.*—As used in these regulations—

(a) *General.*—The terms defined in the above provisions of law shall have the meanings so assigned to them.

(b) *Act.*—The term "Act", unless otherwise indicated, means Title VII of the Revenue Act of 1936, approved June 22, 1936 (49 Stat., 1648).

(c) *Commissioner.*—The term "Commissioner" means the Commissioner of Internal Revenue.

(d) *Collector.*—The term "collector" means collector of internal revenue.

(e) *Person.*—The term "person" includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by means of which any business, financial operation, or venture is carried on. It includes a guardian, trustee, executor, administrator, committee, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(f) *Floor stocks tax.*—The term "floor stocks tax" means the amount paid under the Agricultural Adjustment Act as tax on the holding for sale or other disposition of an article processed wholly or in chief value from a commodity.

(g) *Compensating tax.*—The term "compensating tax" means the amount paid under the Agricultural Adjustment Act as tax on the importation of an article.

(h) *Custom processing tax.*—The term "custom processing tax" means the amount paid under the Agricultural Adjustment Act as tax on the first domestic processing of that quantity of a commodity which was processed for a customer for a charge or fee. Examples: Milling of wheat for toll; slaughtering of hogs for a charge or fee.

(i) *Charge or fee for processing.*—The term "charge or fee for processing" includes any form of compensation charged or taken by the processor for services rendered in processing a commodity for a customer.

(j) *Credit.*—The term "credit" means an amount, otherwise allowable as a refund under the Agricultural Adjustment Act, which was deducted by a person liable for tax an amount due as tax on a return filed under that Act.

(k) *Paid as tax.*—The term "paid as tax" includes any amount paid to, or collected by, a collector of internal revenue or a collector of customs as tax under the Agricultural Adjustment Act.

(l) *Include and including.*—The terms "include" and "including", when used in these regulations, shall not be deemed to exclude other things not specifically mentioned.

(m) *Control.*—The term "control" includes any kind of control, direct or indirect, whether or not legally enforceable, and however exercisable or exercised. It is the reality of the control which is decisive, not its form nor the mode of its exercise.

## CHAPTER II

## CONDITIONS ON ALLOWANCE OF REFUNDS APPLICABLE TO ALL CLAIMS

## Section 903 of the Act

SEC. 903. *Filing of claims.*—No refund shall be made or allowed of any amount paid by or collected from any person as tax under the Agricultural Adjustment Act unless, after the enactment of this Act, and prior to July 1, 1937, a claim for refund has been filed by such person in accordance with regulations prescribed by the Commissioner with the approval of the Secretary. All evidence relied upon in support of such claim shall be clearly set forth under oath. The Commissioner is authorized to prescribe by regulations, with the approval of the Secretary, the number of claims which may be filed by any person with respect to the total amount paid by or collected from such person as tax under the Agricultural Adjustment Act, and such regulations may require that claims for refund of processing taxes with respect to any commodity or group of commodities shall cover the entire period during which such person paid such processing taxes.

ARTICLE 201. *Claims—Form and where to file.*—Claims for the refund of tax shall be made on the prescribed forms. Such claims shall be prepared in accordance with the instructions contained on the forms and in accordance with the provisions of these regulations. Each claim (except claims for refund of compensating tax—see article 401) shall be filed with the collector of internal revenue for the district wherein the claimant has his principal place of business. If the claimant has no principal place of business in the United States, the claim shall be filed with the collector of internal revenue located at Baltimore, Md. Copies of the prescribed forms may be obtained from any collector of internal revenue.

ART. 202. *Facts and evidence in support of claim.*—Each claim shall set forth in detail and under oath each ground upon which the refund is claimed. It is incumbent upon the claimant to prepare a true and complete claim and to substantiate by clear and convincing evidence all of the facts necessary to establish his claim to the satisfaction of the Commissioner; failure to do so will result in the disallowance of the claim.

The provisions of these regulations require that certain specific facts shall be stated in support of any claim for refund. The claimant is privileged to prove those facts in any manner available to him and to submit such evidence to that end as he may desire.

ART. 203. *Period of limitations for filing claims.*—No refund shall be made or allowed of any amount paid as tax unless a claim for such refund is filed by the person entitled thereto, or his duly authorized agent or representative, subsequent to June 22, 1936, and prior to July 1, 1937.

## Section 902 of the Act

SEC. 902. *Conditions on allowance of refunds.*—No refund shall be made or allowed, in pursuance of court decisions or otherwise, of any amount paid by or collected from any claimant as tax under the Agricultural Adjustment Act, unless the claimant establishes to the satisfaction of the Commissioner in accordance with regulations prescribed by him, with the approval of the Secretary, or to the satisfaction of the trial court, or the Board of Review in cases provided for under section 906, as the case may be—

(a) That he bore the burden of such amount and has not been relieved thereof nor reimbursed therefor nor shifted such burden, directly or indirectly, (1) through inclusion of such amount by the claimant, or by any person directly or indirectly under his control, or having control over him, or subject to the same common control, in the price of any article with respect to which a tax was imposed under the provisions of such Act, or in the price of any article processed from any commodity with respect to which a tax was imposed under such Act, or in any charge or fee for services or processing; (2) through reduction of the price paid for any such commodity; or (3) in any manner whatsoever; and that no understanding or agreement, written or oral, exists whereby he may be relieved of the burden of such amount, be reimbursed therefor, or may shift the burden thereof; or

(b) That he has repaid unconditionally such amount to his vendee (1) who bore the burden thereof, (2) who has not been relieved thereof nor reimbursed therefor, nor shifted such burden, directly or indirectly, and (3) who is not entitled to receive any reimbursement therefor from any other source, or to be relieved of such burden in any manner whatsoever.

ART. 204. *Conditions as to tax burden with respect to amount of refund allowable.*—A refund may be allowed to the person who paid the tax, only of that amount paid as tax as to which the claimant establishes to the satisfaction of the Commissioner (1) that he bore the burden of such amount and has not been, or may not be, relieved thereof nor reimbursed therefor, and has not shifted such burden, directly or indirectly, through or by any of the means set forth in subsection (a) of section 902 of the Act; or (2) that he has repaid such amount unconditionally to his vendee who bore the burden thereof, as provided in subsection (b) of section 902 of the Act.

#### Section 911 of the Act

SEC. 911. *Inapplicability to certain refunds.*—\* \* \* No refund shall be made or allowed of any amount paid or collected as tax under the Agricultural Adjustment Act, as amended and reenacted, to the extent that refund or credit with respect to such amount has been made to any person.

ART. 205. *Conditions respecting refunds and credits.*—No refund shall be made or allowed of any amount paid as tax to the extent that credit or refund with respect to such amount has been made to any person. The claimant shall submit, as a part of his claim, a statement setting forth the amounts paid by him as tax under the Agricultural Adjustment Act with respect to which refund or credit has been made to the claimant. Such statement shall show as to each such credit or refund: (1) the amount; (2) the date the tax was paid with respect to which refund or credit was made; (3) the month and year of processing, if such refund or credit was with respect to processing tax or "custom processing tax"; (4) the collector to whom payment of the tax was made; and (5) the return on which each such credit was taken. The claimant shall also submit a statement containing like data showing the refunds and credits which were made or allowed to persons other than the claimant with respect to amounts paid as tax by the claimant; such statement is required to be complete only to the extent that these data are shown by the claimant's records, or are otherwise within his knowledge.

#### Section 908 of the Act

SEC. 908. *Limitations on allowance of claims and interest.*—(a) No claim shall be allowed under this title in an amount less than \$10.

(b) No interest shall be allowed by the Commissioner or by any court with respect to any amount paid or collected as tax under the Agricultural Adjustment Act, except with respect to amounts, refund of which is made or allowed under this title.

ART. 206. *Amount of claim.*—No claim for refund of an amount paid as tax under the Agricultural Adjustment Act shall be allowed in an amount less than \$10.

ART. 207. *Interest.*—No interest shall be allowed with respect to any amount paid as tax under the Agricultural Adjustment Act, except with respect to amounts allowed as refunds under Title VII of the Act. Interest shall not be computed in the claim. The amount thereof will be determined by the Commissioner and paid at the time the refund is made. In any claim in which the date or dates from which interest shall be computed is subject to dispute, or can not be accurately ascertained, the Commissioner may fix an average date and compute interest from such date.

#### Section 912 of the Act

SEC. 912. *Period not extended.*—\* \* \* No claim with respect to any such amount which is barred from allowance at the time of the enactment of this Act shall hereafter be allowed in any amount.

ART. 208. *Claims barred on June 22, 1936.*—No claim with respect to any amount paid as tax under the Agricultural Adjustment Act, which was barred from allowance on June 22, 1936, shall be allowed in any amount.

ART. 209. *Claim by fiduciary.*—If the tax was paid by an individual since deceased and a claim for refund therefor is filed by a legal representative of the deceased, certified copies of letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim was filed. If the tax was paid by an

executor, administrator, guardian, trustee, receiver, or other fiduciary, and the claim for refund is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the tax was paid by the fiduciary and that the latter is still acting. In such cases if a refund is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon receipt of a specific request therefor. If a claim is filed by a fiduciary other than the one by whom the tax was paid, documentary evidence showing the authority of the fiduciary to make the claim shall accompany the claim.

ART. 210. *Treasury regulations made applicable.*—The definitions, classifications, and conversion factors contained in the Treasury regulations listed below are hereby made applicable to all claims subject to these regulations in so far as not inconsistent with these regulations and the provisions of the Act:

Regulations 81, approved July 12, 1933, as amended.  
Regulations 82, approved June 28, 1933, as amended.  
Treasury Decision 4433, relating to cotton.  
Treasury Decision 4407, relating to field corn.  
Treasury Decision 4518, relating to hogs.  
Treasury Decision 4495, relating to jute yarn.  
Treasury Decision 4495, relating to jute fabric.  
Treasury Decision 4495, relating to paper.  
Treasury Decision 4489, relating to peanuts.  
Treasury Decision 4611, relating to reinforced paper fabric.  
Treasury Decision 4586, relating to rice.  
Treasury Decision 4601, relating to rye.  
Treasury Decision 4549, relating to sugar beets and sugarcane.  
Treasury Decision 4610, relating to tobacco.  
Treasury Decision 4579, relating to wheat.

#### CHAPTER III

##### FLOOR STOCKS TAX REFUND CLAIMS

ARTICLE 301. *Claim form prescribed.*—Claims for refund of amounts paid as floor stocks tax shall be filed on P. T. Form 76. (See Chapter II for general provisions relating to all claims.)

ART. 302. *Limitation as to number of claims.*—Only one claim shall be filed by any person for refund of floor stocks taxes. The claimant shall include in such claim the total amount of refund claimed with respect to the total amount of all floor stocks taxes paid by him.

If the claimant paid floor stocks tax with respect to more than one commodity, the total amount of refund claimed out of the total floor stocks taxes paid with respect to all commodities shall, nevertheless, be set forth in one claim. For example, if the claimant paid the cotton floor stocks tax, the wheat floor stocks tax, and the tobacco floor stocks tax, he shall include in one claim the total amount of the refund sought out of the total amount of floor stocks taxes paid by him with respect to cotton articles, wheat articles, and tobacco articles, and shall not file three separate claims.

ART. 303. *Payment of tax.*—The claimant shall set forth in the claim: (1) the total amount paid by him as floor stocks tax; (2) the date and the amount of each payment thereof; and (3) the collector of internal revenue to whom each such payment was made. If claim is filed for refund of tax paid with respect to more than one commodity (for example, cotton articles and wheat articles), the data specified above respecting payments shall be set forth separately with respect to each commodity.

ART. 304. *Refund allowable.*—The total amount of refund allowable, and hence the total amount of refund to be claimed, is that part of the total amount of all floor stocks taxes paid by the claimant as to which such claimant bore the burden and as to which no refund or credit has been allowed to any person. (See sections 902 and 911 of the Act.)

ART. 305. *Facts and evidence respecting tax burden.*—If the claim involves floor stocks taxes paid with respect to more than one commodity, the facts and evidence as to the

amount of tax burden borne with respect to articles made from each such commodity shall be set out separately; e. g., if the claim is for refund of amounts paid as cotton floor stocks tax and as wheat floor stocks tax, the facts and evidence concerning the tax burden with respect to cotton articles shall be set forth separately from the like facts and evidence with respect to wheat articles. (See article 202.)

#### CHAPTER IV

##### COMPENSATING TAX REFUND CLAIMS

ARTICLE 401. *Claim form prescribed.*—Claims for refund of amounts paid as compensating tax with respect to imported articles shall be filed on P. T. Form 77. The claim shall be filed with the collector of internal revenue for the district in which is located the customs port of entry through which the importation was made and in which the tax was paid. (See Chapter II for general provisions relating to all claims.)

ART. 402. *Limitation as to number of claims.*—Separate claims shall be filed with respect to the compensating tax paid on articles imported through each customs port of entry, and importations made through one customs port of entry shall not be included in the same claim with importations made through another customs port of entry. The claimant may include in a single claim compensating tax paid with respect to a number or all of the importations he has made through the same customs port of entry.

ART. 403. *Payment of tax.*—Each claim for refund of compensating tax shall show with respect to each importation: (1) the customs port of entry; (2) the name of the commodity or commodities with respect to which each payment of compensating tax was made; (3) the total amount of compensating tax paid by the claimant with respect to each importation; (4) the date and amount of each such payment; (5) the collector of internal revenue or collector of customs to whom each such payment was made; and (6) if the compensating tax with respect to an importation was paid to a collector of customs, the claim shall also show, for each such importation, the customs port of entry, the date of entry, the entry number, and the class of entry. There shall also be set forth a general description of the articles involved in the claim with respect to which the compensating tax was paid. (Compensating tax paid from the effective dates of the taxes imposed under the Agricultural Adjustment Act to the last moment of December 29, 1934, was collected by the various collectors of internal revenue. Compensating tax paid from the first moment of December 30, 1934, was collected by the various collectors of customs.)

ART. 404. *Refund allowable.*—The total amount of refund allowable, and hence the total amount of refund to be claimed, is that part of the total amount of compensating tax paid by the claimant with respect to the importations involved in the claim as to which such claimant bore the burden and as to which no refund or credit has been allowed to any person. (See sections 902 and 911 of the Act.)

ART. 405. *Facts and evidence respecting tax burden.*—The facts and evidence respecting tax burden under section 902 of the Act shall be set forth separately with respect to each importation involved in the claim. (See article 202.)

#### CHAPTER V

##### CUSTOM PROCESSING TAX REFUND CLAIMS

ARTICLE 501. *Claim form prescribed.*—Claims for refund of amounts paid as tax on the first domestic processing of a commodity with respect to that quantity of the commodity processed for a customer for a charge or fee, and which tax is identified in these regulations as "custom processing tax" (see paragraph (h) of article 101), shall be filed on P. T. Form 78. (See Chapter II of these regulations for general provisions relating to all claims.)

ART. 502. *Limitation as to number of claims.*—A separate claim shall be filed with respect to each commodity processed. Only one claim shall be filed by any person with respect to the total amount paid by such person as "custom processing tax" on the processing of a single commodity.

ART. 503. *Payment of tax.*—Each claim shall show, as to each month's processing of the commodity involved in such

claim: (1) The total tax liability returned for the month on the processing of the commodity; (2) the amount and date of each payment and the month for which paid; (3) the collector to whom paid; and (4) that part of the amount paid for each month which represented "custom processing tax." The claimant shall submit, as a part of his claim, appropriate schedules showing, by months, the quantity of the commodity processed for customers with respect to which such "custom processing tax" was paid.

ART. 504. *Refund allowable.*—The total amount of refund allowable, and hence the total amount of refund to be claimed, is that part of the total amount of "custom processing tax" paid by the claimant with respect to the particular commodity as to which such claimant bore the burden and as to which no refund or credit has been allowed to any person. (See sections 902 and 911 of the Act.)

ART. 505. *Facts and evidence respecting tax burden.*—The facts and evidence respecting tax burden under section 902 of the Act shall be set forth in the claim. (See article 202.)

#### CHAPTER VI

##### PROCESSING TAX REFUND CLAIMS

ARTICLE 601. *Claim form prescribed.*—Claims for refund of amounts paid as processing tax (as defined in section 913 (b) of the Act) shall be filed on P. T. Form 79. (See Chapter II of these regulations for general provisions relating to all claims.)

ART. 602. *Limitation as to number of claims.*—A separate claim shall be filed with respect to each commodity on the processing of which the claimant paid processing tax. In the case of tobacco, all market classifications of tobacco shall be considered a single commodity and, therefore, there shall be included in one claim all of the market classifications of tobacco on the processing of which the claimant paid processing tax. Only one claim shall be filed by any person with respect to the total amount paid by such person as processing tax on the processing of a single commodity (or of all market classifications of tobacco).

ART. 603. *Payment of tax.*—The claimant shall set forth in the claim complete data with respect to the amount of processing tax which he has paid on the processing of the commodity. Each claim shall show as to each month's processing of the commodity: (1) the total tax liability returned; (2) the total amount of tax paid on the first domestic processing of the commodity; (3) the date and amount of each payment and the month for which paid; (4) that part of the total amount paid which represented the processing of the commodity for a customer for a charge or fee ("custom processing tax," see Chapter V of these regulations); (5) that part of the total amount paid which represented processing tax, as defined in section 913 (b) of the Act; and (6) the collector to whom each payment was made. In the case of tobacco the above data respecting tax payment shall be shown separately with respect to each market classification.

ART. 604. *Refund allowable.*—The total amount of refund allowable, and hence the total amount of refund to be claimed, is that part of the total amount of processing tax paid by the claimant with respect to the particular commodity as to which such claimant bore the burden and as to which no refund or credit has been allowed to any person. (See sections 902 and 911 of the Act.)

##### Section 907 of the Act

SEC. 907. *Evidence and presumptions.*—(a) Where the refund claimed is for an amount paid or collected as processing tax, as defined herein, it shall be prima-facie evidence that the burden of such amount was borne by the claimant to the extent (not to exceed the amount of the tax) that the average margin per unit of the commodity processed was lower during the tax period than the average margin was during the period before and after the tax. If the average margin during the tax period was not lower, it shall be prima-facie evidence that none of the burden of such amount was borne by the claimant but that it was shifted to others.

(b) The average margin for the tax period and the average margin for the period before and after the tax shall each be determined as follows:

(1) *Tax period.*—The average margin for the tax period shall be the average of the margins for all months (or portions of months) within the tax period. The margin for each such month



shall be computed as follows: From the gross sales value of all articles processed by the claimant from the commodity during such month, deduct the cost of the commodity processed during the month and deduct the processing tax paid with respect thereto. The sum so ascertained shall be divided by the total number of units of the commodity processed during such month, and the resulting figure shall be the margin for the month.

(2) *Period before and after the tax.*—The average margin for the period before and after the tax shall be the average of the margins for all months (or portions of months) within the period before and after the tax. The margin for each such month shall be computed as follows: From the gross sales value of all articles processed by the claimant from the commodity during such month, deduct the cost of the commodity processed during the month. The sum so ascertained shall be divided by the number of units of the commodity processed during such month, and the resulting figure shall be the margin for the month.

(3) *Average margin.*—The average margin for each period shall be ascertained in the same manner as monthly margins under subdivisions (1) and (2), using total gross sales value, total cost of commodity processed, total processing tax paid and total units of commodity processed, during such period.

(4) *Combination of commodities.*—Where, as, for example, in the case of certain types of tobacco, the articles produced and sold by the claimant are the product of several commodities combined by him during processing, the average margins shall be established with respect to such commodities as a group, and not individually, in accordance with rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(5) *Cost of commodity.*—The cost of commodity processed during each month shall be (a) the actual cost of the commodity processed if the accounting procedure of the claimant is based thereon, or (b) the product computed by multiplying the quantity of the commodity processed by the current prices at the time of processing for commodities of like quality and grade in the markets where the claimant customarily makes his purchases.

(6) *Gross sales value of articles.*—The gross sales value of articles shall mean (a) the total of the quantity of each article derived from the commodity processed by the claimant during each month multiplied by (b) the claimant's sale prices current at the time of processing for articles of similar grade and quality.

(7) The quantity of each article derived from the commodity processed may be either (a) the actual quantity obtained, as shown by the records of the claimant, or (b) an estimated quantity computed by multiplying the quantity of commodity processed by appropriate conversion factors giving the quantity of articles customarily obtained from the processing of each unit of the commodity.

(c) The "tax period" shall mean the period with respect to which the claimant actually paid the processing tax to a collector of internal revenue and shall end on the date with respect to which the last payment was made. The "period before and after the tax" shall mean the twenty-four months (except that in the case of tobacco it shall be the twelve months) immediately preceding the effective date of the processing tax, and the six months, February to July 1936, inclusive. If during any part of such period the claimant was not in business, or if his records for any part of such period are so inadequate as not to provide satisfactory data on prices paid for commodities purchased or prices received for articles sold, the average prices paid or received by representative concerns engaged in a similar business and similarly circumstanced may with the approval of the Commissioner where necessary for a fair comparison, be substituted in making the necessary computations. If the claimant was not in business during the entire period before and after the tax, the average margin, during such period, of representative concerns engaged in a similar business and similarly circumstanced, as determined by the Commissioner, shall be used as his average margin for such period.

(d) If the claimant made any purchase or sale otherwise than through an arm's-length transaction, and at a price other than the fair market price, the Commissioner may determine the purchase or sale price to be that for which such purchases or sales were at that time made in the ordinary course of trade.

(e) Either the claimant or the Commissioner may rebut the presumption established by subsection (a) of this section by proof of the actual extent to which the claimant shifted to others the burden of the processing tax. Such proof may include, but shall not be limited to—

(1) Proof that the difference or lack of difference between the average margin for the tax period and the average margin for the period before and after the tax was due to changes in factors other than the tax. Such factors shall include any clearly shown change (A) in the type or grade of article or commodity or (B) in costs of production. If the claimant asserts that the burden of the tax was borne by him and the burden of any other increased costs was shifted to others, the Commissioner shall determine, from the effective dates of the imposition or termination of the tax and the effective date of other changes in costs as compared with the date of the changes in margin (when margins are computed for weeks, months, or other intervals between July 1, 1931, and August 1936 in the manner specified in subsection (b)), and from the general experience

of the industry, whether the tax or the increase in other costs was shifted to others. If the Commissioner determines that the difference in average margin was due in part to the tax and in part to the increase in other costs, he shall apportion the change in margin between them;

(2) Proof that the claimant modified existing contracts of sale, or adopted a new form of contract of sale, to reflect the initiation, termination, or change in amount of the processing tax, or at any such time changed the sale price of the article (including the effect of a change in size, package, discount terms, or any other merchandising practice) by substantially the amount of the tax or change therein, or at any time billed the tax as a separate item to any vendee, or indicated by any writing that the sale price included the amount of the tax, or contracted to refund any part of the sale price in the event of recovery of the tax or decision of its invalidity; but the claimant may establish that such acts were caused by factors other than the processing tax, or that they do not represent his practice at other times. If the claimant processed any product in addition to the commodity with respect to the processing of which there was paid or collected an amount as tax for which he claims a refund, and if the Commissioner has reason to believe that the burden of such amount was shifted in whole or in part by means of the transactions relating to such product, the average margin with respect to such product, and articles processed therefrom shall also be considered, and shall be determined for the tax period applicable to the commodity and for the period before and after the tax in the manner prescribed in subsection (b) of this section. To the extent the Commissioner determines that the average margin with respect to such product was higher during the tax period than it was during the period before and after the tax, it shall be prima-facie evidence that such amount was not borne by the claimant but that it was shifted to others.

ARR. 605. *Evidence as to margins.*—Section 907 of the Act provides that in claims for refund of amounts paid as processing tax it shall be prima facie evidence that the burden of such amount was borne by the claimant to the extent (not to exceed the amount of the tax) that the average margin per unit of the commodity processed was lower during the tax period than the average margin per unit of such commodity was during the period before and after the tax. If the average margin during the tax period was not lower, it shall be prima facie evidence that none of the burden of such amount was borne by the claimant but that it was shifted to others.

There shall be submitted with, and as a part of, each claim, a statement showing the average margin for the tax period and for the period before and after the tax. (For definition of "tax period" and "period before and after the tax", see section 907 (c) of the Act.)

The average margin for the tax period shall be computed as follows: Determine for each month during the period (1) the gross sales value of articles derived from the commodity processed during such month; (2) the cost of the commodity processed during such month; (3) the amount of processing tax paid with respect to the quantity of the commodity processed during the month; and (4) the number of units of the commodity processed during the month. The sum of the monthly gross sales values for all months during the period minus the sum of the monthly costs of the commodity processed for all months during the period, minus the sum of the processing taxes paid for all months during the period, and divided by the sum of the number of units of the commodity processed during all the months comprising the period is the average margin for such period. (For definition of "cost of commodity" and "gross sales value", see section 907 (b), paragraphs (5) and (6), respectively, of the Act.)

The average margin for the period before and after the tax shall be computed in the same manner as the average margin for the tax period, except that the processing tax does not enter into the computation.

In determining the average margin for the tax period, the "number of units of the commodity processed" shall be the number of units of the commodity with respect to which the claimant actually paid the processing tax; the "cost of the commodity processed" shall be the cost of the number of units of the commodity with respect to which the claimant actually paid the processing tax; the "gross sales value of articles" shall be the gross sales value of articles processed from the number of units of the commodity with respect to which the claimant actually paid the processing tax.

In support of such statement there shall be submitted, verified by appropriate affidavit, a detailed showing of the manner in which the margins for each month and the average margins for each period were ascertained, the data and records on which they were based, the location of such data and records, and all other related matters, including the accounting procedure of the claimant, which entered into the computations of such margins. All elements, factors, units, or measures entering into the computation of such margins, and any departure from uniformity in the use thereof in making such computation for any part of either period, must be fully explained and justified.

ART. 606. *Other evidence.*—In addition to the showing as to margins, the claimant is privileged to submit with his claim any other evidence available to him tending to establish that he bore the burden of the tax. Such evidence may be submitted to support the prima facie presumption, if such presumption is in favor of the claimant, or to rebut such presumption if it is against him. (See section 902 and subsection (e) of section 907 of the Act.)

## CHAPTER VII

### MISCELLANEOUS

#### Closing Agreements

##### Section 506 of the Act

SEC. 506. *Closing agreements.*—Any person who is liable for the tax imposed by this title and who has filed any claim or claims for refund of any amount paid or collected as tax under the Agricultural Adjustment Act, as amended, may apply to the Commissioner of Internal Revenue for an adjustment of such liability for tax in conjunction with such claim or claims for refund, and thereafter, the Commissioner, for such purposes, may, in his discretion, consider such liability and such claim or claims as one case and, in his discretion, may enter into a written agreement with such person for the settlement of such case by such payment by, or refund to, such person as may be specified in such agreement. Such agreement shall be a final settlement of the liability for tax and the claim or claims for refund covered by such agreement, except in case of fraud, malfeasance, or misrepresentation of a material fact. In the absence of fraud or mistake in mathematical calculation, any action taken or any consideration given by the Commissioner pursuant to this section shall not be subject to review by any court, or any administrative, or accounting officer, employee, or agent of the United States.

ARTICLE 701. *Closing agreements.*—Agreements for the final settlement of tax liability imposed by Title III of the Revenue Act of 1936 in conjunction with any claim or claims for refund filed pursuant to Title VII of the Act may be entered into under the provisions of section 506 of the Act. Such agreements are subject to the provisions of article 26 of Regulations 95.

#### Maintenance and Inspection of Records

##### Section 914 of the Act

SEC. 914. *Authority of commissioner.*—In connection with the establishment of the facts required to be established under this title, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Treasury Department and of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda which are relevant and material in connection with any claim made pursuant to this title, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any person designated by him, to summon witnesses to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any claim made pursuant to this title. The provisions of 3174 and 3175 of the Revised Statutes, as amended, shall be applicable with respect to any summons issued pursuant to the provisions of this title. Any witness summoned under this title shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this section shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this

requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office.

ART. 702. *Maintenance and inspection of records.*—Any person who files a claim for refund of any amount paid as tax under the Agricultural Adjustment Act shall preserve for four years thereafter a complete and detailed record of the facts upon which the claim is based. Such person shall also maintain for a period of four years from the date the claim is filed all records relating to the purchase, processing, and marketing of the commodity or the articles with respect to which the tax was paid, including all records of transactions or dealings with customers respecting articles processed from a commodity with respect to which the tax was paid, and, in general, all books, papers, correspondence, documents, memoranda, agreements, and other records relating to transactions or dealings engaged in by such person with respect to the commodity, the articles processed therefrom, and the articles with respect to which tax was paid. In case of destruction or loss of any records pertinent to the claim and the facts alleged therein, the claimant will be required to account therefor. All such books, papers, records, documents, correspondence, and memoranda shall be kept at some accessible and safe location and shall at all times be open for inspection. Any officer or employee of the Treasury Department and of the Bureau of Internal Revenue, including the field service, is authorized, when engaged in duties respecting any claim, to examine all such records of the claimant.

#### Penalties

ART. 703. *Penalty for fraudulently claiming refund.*—Severe criminal penalties are imposed under section 35 of the United States Criminal Code, as amended, for the making, filing, or causing to be presented any claim pursuant to these regulations, if such claim is known to be false, fictitious, or fraudulent. This section also provides for the punishment of any person who shall knowingly and willfully falsify or conceal, or cover up by any trick, scheme, or device, a material fact, or make, or cause to be made, any false or fraudulent statements or representations, or make or use, or cause to be made or used, any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry. Any person who shall enter into any agreement, combination, or conspiracy to defraud the Government by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claims under these regulations may also be punished under the provisions of this section.

#### Administering of Oaths

##### Section 3165 of the United States Revised Statutes, as Amended

SEC. 3165. Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue act, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

#### Authority for Regulations

##### Section 916 of the Act

SEC. 916. *Rules and regulations.*—The Commissioner shall, with the approval of the Secretary, prescribe such rules and regulations as may be deemed necessary to carry out the provisions of this title.

ART. 704. *Authority for regulations.*—Pursuant to the provisions of the Act the foregoing regulations are hereby prescribed.

[SEAL]

GUY T. HELVERING,  
Commissioner of Internal Revenue.

Approved, October 15, 1936.

H. MORGENTHAU, Jr.,  
Secretary of the Treasury.

[F. R. Doc. 2962—Filed, October 16, 1936; 3:00 p. m.]

## DEPARTMENT OF AGRICULTURE.

## Agricultural Adjustment Administration.

NER-B-4, Revised  
New York

Issued October 16, 1936

1936 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST  
REGION

## BULLETIN NO. 4, REVISED—NEW YORK

*County Average Rates of Soil-Conserving Payments in Connection With the General Soil-Depleting Base*

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Northeast Region, Bulletin No. 4, for the State of New York is hereby amended to read as follows:

*County Average Rates of Soil-Conserving Payments for Production of Soil-Conserving Crops on Acreage Diverted From the General Soil-Depleting Base*

In accordance with the provisions of section 2 (a), part II, of Northeast Region Bulletin No. 1 Revised and subject to the provisions of said bulletin and all other bulletins heretofore or hereafter issued, for the respective counties of the State of New York, the county average rates of payment per acre to be used in determining payment for the diversion of crops from the general soil-depleting base to the production of soil-conserving crops in 1936 shall be as shown hereunder.

*County—Rate of payment per acre*

Albany, \$10.40; Alleghany, \$10.40; Broome, \$10.60; Cattaraugus, \$10.60; Cayuga, \$12.40; Chautauqua, \$11.00; Chemung, \$10.50; Chenango, \$12.70; Clinton, \$10.70; Columbia, \$10.20; Cortland, \$11.80; Delaware, \$11.80; Dutchess, \$12.90; Erie, \$10.80; Essex, \$10.10; Franklin, \$10.90; Fulton, \$10.40; Genesee, \$12.00; Greene, \$11.30; Hamilton, \$7.00; Herkimer, \$11.80; Jefferson, \$10.30; Lewis, \$10.70; Livingston, \$11.60; Madison, \$12.90; Monroe, \$12.60; Montgomery, \$11.40; Nassau, \$15.70; Niagara, \$11.40; Oneida, \$12.20; Onondaga, \$12.60; Ontario, \$12.10; Orange, \$13.40; Orleans, \$12.20; Oswego, \$11.30; Otsego, \$12.40; Putnam, \$12.50; Rensselaer, \$10.30; Richmond, \$12.90; Rockland, \$11.50; St. Lawrence, \$10.30; Saratoga, \$10.40; Schenectady, \$10.20; Schoharie, \$11.50; Schuyler, \$10.20; Seneca, \$11.90; Steuben, \$10.00; Suffolk, \$16.50; Sullivan, \$11.80; Tioga, \$11.30; Tompkins, \$11.30; Ulster, \$11.30; Warren, \$10.20; Washington, \$12.20; Wayne, \$11.70; Westchester, \$12.80; Wyoming, \$11.40; Yates, \$11.50.

In testimony whereof, R. G. Tugwell, Acting Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 16th day of October 1936.

[SEAL]

R. G. TUGWELL,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 2970—Filed, October 17, 1936; 12:25 p. m.]

## DEPARTMENT OF COMMERCE.

## Bureau of Marine Inspection and Navigation.

## DOCUMENTATION OF YACHTS

Under the discretionary authority vested in the Secretary of Commerce by Section 4214 R. S. (46 U. S. C. 103) to cause yachts used exclusively for pleasure purposes or designed as models of naval architecture to be licensed on terms that will permit them to proceed from port to port in the United States and to foreign ports without entering or clearing at the customhouse, it has been the general practice to restrict such licenses to yachts of sixteen gross tons or over, though in exceptional cases permission has been granted to license yachts of less tonnage when the owners were going to cruise in foreign waters and needed a document of some sort to meet the foreign customs requirements.

Section 210 of the Anti-Smuggling Act, amending Section 1 of the Act of June 7, 1918, by requiring a certificate of award of number to undocumented motor vessels to be kept on board and constituting such certificate a document in lieu of enrollment or license, has provided such boats with official documents that should serve all purposes when in nearby foreign ports and eliminate the necessity for yacht licenses for these craft.

Yacht licenses confer certain privileges and exemptions not enjoyed by other classes of vessels and which, in many cases, have been used to the advantage of persons using their boats for illegal purposes, and in view of the frequent employment of small craft in smuggling between the United States and nearby foreign places, it is essential that the freedom of movement and consequent less strict supervision possible under a yacht license be not extended to vessels of lesser tonnage.

Collectors of customs are, therefore, instructed to refuse all applications for yacht licenses for vessels of less than sixteen gross tons.

October 16, 1936.

[SEAL]

DANIEL C. ROPER,  
*Secretary of Commerce.*

[F. R. Doc. 2968—Filed, October 17, 1936; 10:50 a. m.]

## DEPARTMENT OF LABOR.

## Office of the Secretary.

REGULATIONS FOR ADMINISTRATION OF THE ACT OF JUNE 30,  
1936, PUBLIC NO. 846, 74TH CONGRESS

By virtue of the authority vested in the Secretary of Labor by section 4 of the act entitled "An act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes" [act of June 30, 1936, Public No. 846, 74th Cong.], Article 501 of Part II of Reg. No. 504, dated September 14, 1936, is hereby amended to read as follows:

ART. 501. *Records of Employment.*—Every contractor subject to the provisions of the act and these Regulations shall maintain the following records of employment which shall be available for the inspection and transcription of authorized representatives of the Secretary of Labor:

(a) Name, address, sex, and occupation of each employee covered by the contract stipulations.

(b) Date of birth of each such employee under 21 years of age.

(c) Wage and hour records for each such employee including the rate of wages and the amount paid each pay period, the hours worked each day and each week, and the period during which each such employee was engaged on a government contract with the number of such contract. Compliance with this subsection shall be deemed complete if wage and hour records for all employees in the plant are maintained during the period between the award of any government contract and the date of delivery of the materials, supplies, articles, or equipment: *Provided*, That where no separate records for employees engaged on government contracts are maintained, it shall be presumed until affirmative proof is present to the contrary that all employees in the plant, from the date of award of any such contract until the date of delivery of the materials, supplies, articles, or equipment, were engaged on such government contract.

Such records shall be kept on file for at least 1 year after the termination of the contract.

[SEAL]

CHARLES O. GREGORY,  
*Acting Secretary of Labor.*

OCTOBER 17, 1936.

[F. R. Doc. 2976—Filed, October 19, 1936; 11:16 a. m.]

## FEDERAL TRADE COMMISSION.

*United States of America—Before Federal Trade  
Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of October A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer.

[Docket No. 2869]

## IN THE MATTER OF BELMONT LABORATORIES, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR  
TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal

Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, that Edward M. Averill, an examiner of this Commission, be, and he hereby is, designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, that the taking of testimony in this matter begin on Friday, October 23, 1936, at ten o'clock in the forenoon of that day (eastern standard time), in Room 423, United States Post Office, Ninth Street Annex, Philadelphia, Pennsylvania.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and receive evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 2974—Filed, October 17, 1936; 12:27 p. m.]

*United States of America—Before Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of October A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer.

[Docket No. 2906]

IN THE MATTER OF R. H. MACY AND COMPANY, A CORPORATION  
ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR  
TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, that Edward M. Averill, an examiner of this Commission, be, and he hereby is, designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, that the taking of testimony in this proceeding begin on Tuesday, October 20, 1936, at ten o'clock in the forenoon of that day (eastern standard time), in Room 823, 45 Broadway, New York City.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 2973—Filed, October 17, 1936; 12:26 p. m.]

*United States of America—Before Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of October A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer.

[Docket No. 2827]

IN THE MATTER OF MARSH LUMBER COMPANY, A CORPORATION,  
TRADING AS MARSH WALL TILE COMPANY  
ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR  
TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, that Charles F. Diggs, an examiner of this Commission, be, and he hereby is, designated and appointed

to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, that the taking of testimony in this proceeding begin on Tuesday, October 20, 1936, at ten o'clock in the forenoon of that day (Eastern Standard Time), in Room 500, 45 Broadway, New York City.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 2972—Filed, October 17, 1936; 12:26 p. m.]

*United States of America—Before Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of October A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer.

[Docket No. 2614]

IN THE MATTER OF THE MASONITE CORPORATION, A CORPORATION  
ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR  
TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, that Charles F. Diggs, an examiner of this Commission, be, and he hereby is, designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, that the taking of testimony in this proceeding begin on Tuesday, October 20, 1936, at ten o'clock in the forenoon of that day (Eastern Standard Time), in Room 500, 45 Broadway, New York City.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 2971—Filed, October 17, 1936; 12:26 p. m.]

INTERSTATE COMMERCE COMMISSION.

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 7th day of October A. D. 1936.

[No. MC 59385]

APPLICATION OF WILLIAM J. KENT, GERALD N. KENT, AND THOMAS M. KENT FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of William J. Kent, Gerald N. Kent, and Thomas M. Kent, Co-partners, Doing Business as W. J. Kent and Sons, of 1312 16th Street, Lawrenceville, Ill., for a Certificate of Public Convenience and Necessity (Form BMC 8, New Operation), Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of General Commodities, in Interstate Commerce, From and Between Points Located in the States of Illinois, Indiana, Ohio, and Kentucky, Over Irregular Routes

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner B. E. Stillwell for hearing

and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered*, That this matter be assigned for hearing before Examiner B. E. Stillwell on the 9th day of November A. D. 1936, at 10 o'clock a. m. (standard time), at the Hotel Sherman, Chicago, Ill.;

*It is further ordered*, That notice of this proceeding be duly given;

*And it is further ordered*, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 2982—Filed, October 19, 1936; 11:46 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 7th day of October A. D. 1936.

[No. MC 50478]

#### APPLICATION OF CHARLES A. MEALS FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of Charles A. Meals, of 708 North Ohio Street, Tuscola, Ill., for a Permit (Form BMC 10, New Operation), Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, from and between Points Located in the States of Illinois, Indiana, Ohio, Iowa, and Missouri, Over Irregular Routes

*It appearing*, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered*, That the above-entitled matter be, and it is hereby, referred to Examiner B. E. Stillwell for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered*, That this matter be assigned for hearing before Examiner B. E. Stillwell on the 12th day of November A. D. 1936, at 10 o'clock a. m. (standard time), at the Hotel Sherman, Chicago, Ill.;

*It is further ordered*, That notice of this proceeding be duly given;

*And it is further ordered*, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 2980—Filed, October 19, 1936; 11:46 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 7th day of October A. D. 1936.

[No. MC 50685]

#### APPLICATION OF FRANK SCOTT FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of Frank Scott, an Individual, Doing Business as Mercer County Livestock Express, of Seaton, Ill., for a Permit (Form BMC 10, New Operation), Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, in the States of Illinois, Iowa, Missouri, and Minnesota, Over the Following Routes

Route No. 1.—Between Seaton, Ill., and Kansas City, Mo.

Route No. 2.—Between Seaton and Chicago, Ill.

Route No. 3.—Between Chicago, Ill., and Des Moines, Iowa.

Route No. 4.—Between Chicago, Ill., and Kansas City, Mo.

Route No. 5.—Between Chicago, Ill., and Minneapolis and St. Paul, Minn.

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

*It appearing*, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered*, That the above-entitled matter be, and it is hereby, referred to Examiner B. E. Stillwell for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered*, That this matter be assigned for hearing before Examiner B. E. Stillwell on the 12th day of November A. D. 1936 at 10 o'clock a. m. (standard time), at the Hotel Sherman, Chicago, Ill.;

*It is further ordered*, That notice of this proceeding be duly given;

*And it is further ordered*, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 2981—Filed, October 19, 1936; 11:46 a. m.]

[Fourth Section Application No. 16557]

#### VEGETABLES TO TRUNK LINE POINTS

OCTOBER 17, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act,

Filed by: W. S. Curlett and Frank Van Ummerson, Agents. Commodities involved: Potatoes and other vegetables, in carloads.

From: Points in Maine and Provinces of New Brunswick and Quebec.

To: Points in Trunk Line territory.

Grounds for relief: Circuitous routes and to maintain grouping.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 2977—Filed, October 19, 1936; 11:45 a. m.]



[Fourth Section Application No. 16558]

## CRUDE NITRATE OF POTASH FROM SOUTHERN PORTS

OCTOBER 17, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act,

Filed by: E. B. Boyd, Agent.  
Commodity involved: Crude nitrate of potash, in carloads.  
From: Southern ports.  
To: Points in Central Freight Association and Western Trunk Line territories.  
Grounds for relief: Market competition.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL]

GEORGE B. MCGINTY, *Secretary*.

[F. R. Doc. 2978—Filed, October 19, 1936; 11:45 a. m.]

[Fourth Section Application No. 16559]

## RATES—MERCHANTS AND MINERS TRANSPORTATION COMPANY

OCTOBER 17, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act,

Filed by: Wm. J. Sedgman, Agent.  
Commodity involved: Class and commodity rates.  
Between: Points in Virginia, on the one hand, and points in Colorado-Utah territory, on the other, over ocean-rail and rail-ocean-rail routes.  
Grounds for relief: Competition with all-rail carriers.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL]

GEORGE B. MCGINTY, *Secretary*.

[F. R. Doc. 2979—Filed, October 19, 1936; 11:45 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of October A. D. 1936.

IN THE MATTER OF DOLPHIN PAINT & VARNISH COMPANY, CLASS A COMMON, NO PAR VALUE; CLASS B COMMON, NO PAR VALUE

## ORDER CHANGING DATE FOR HEARING

The Commission having directed under date of September 26, 1936, that pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, a hearing be held at the Commission's Regional Office, 105 West Adams Street, Chicago, Illinois, at 10:00 a. m. on October 19, 1936, to determine whether registration of the Class A, No Par Common Stock, \$2 Cumulative Dividend and Callable at \$27.50, and of the Class B, No Par Common Stock, No Fixed Dividend, of the Dolphin Paint and Varnish Company should be suspended for a period not exceeding twelve months or be withdrawn, and the registrant having subsequently on October 14, 1936,

filed with the Commission an application pursuant to Rule JD2 for withdrawal of said securities from listing and registration;

It is ordered that the hearing heretofore called for October 19, 1936, be held at the same hour and place on October 26, 1936.

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2323—Filed, October 19, 1936; 12:41 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of October A. D. 1936.

[File No. 2-2467]

## IN THE MATTER OF REGISTRATION STATEMENT OF EAST SIDE ASSOCIATES, INC.

ORDER FIXING TIME AND PLACE OF HEARING UNDER SECTION 8 (D) OF THE SECURITIES ACT OF 1933, AS AMENDED, AND DESIGNATING OFFICER TO TAKE EVIDENCE

It appearing to the Commission that there are reasonable grounds for believing that the registration statement filed by East Side Associates, Inc. under the Securities Act of 1933, as amended, includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading.

It is ordered that a hearing in this matter under Section 8 (d) of said Act, as amended, be convened on October 27, 1936, at 10 o'clock in the forenoon, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the officer hereinafter designated may determine; and

It is further ordered that Charles S. Moore, an officer of the Commission, be, and he hereby is, designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of testimony in this matter, the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2332—Filed, October 19, 1936; 12:42 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 15th day of October A. D. 1936.

[File No. 2-2459]

## IN THE MATTER OF REGISTRATION STATEMENT OF HOLLYWOOD FAMOUS PICTURES, INC.

ORDER FIXING TIME AND PLACE OF HEARING UNDER SECTION 8 (D) OF THE SECURITIES ACT OF 1933, AS AMENDED, AND DESIGNATING OFFICER TO TAKE EVIDENCE

It appearing to the Commission that there are reasonable grounds for believing that the registration statement filed by Hollywood Famous Pictures, Inc. under the Securities Act of 1933, as amended, includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading.

It is ordered, that a hearing in this matter under Section 8 (d) of said Act, as amended, be convened on October 29, 1936, at 10 o'clock in the forenoon, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the officer hereinafter designated may determine; and

It is further ordered, that John H. Small, an officer of the Commission, be, and he hereby is, designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of testimony in this matter, the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2991—Filed, October 19, 1936; 12:42 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its Office in the City of Washington, D. C., on the 16th day of October A. D. 1936.

[File No. 32-43]

*IN THE MATTER OF LAKE SUPERIOR DISTRICT POWER COMPANY  
ORDER GRANTING EXEMPTION FROM PROVISIONS OF SECTION 6 (A)  
OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935*

Lake Superior District Power Company having duly filed with this Commission an application, and an amendment thereto, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of said Act of the issue and sale by applicant of \$5,600,000 principal amount of its First Mortgage Bonds, Series A, 3½%, dated October 1, 1936, and due October 1, 1966; a hearing thereon having been held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, that the issue and sale of said bonds in accordance with the terms and for the purposes represented by said application, as amended, be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, upon condition, however, that such issue and sale shall be made in all respects in compliance with the terms and conditions set forth in the certificate of authority of the Public Service Commission of Wisconsin dated September 21, 1936, as amended by order of said Commission dated October 9, 1936, and in the order of the Michigan Public Utilities Commission dated September 23, 1936, as amended by a supplemental order of said Commission dated October 14, 1936, expressly authorizing such issue and sale.

It is further ordered, that, within ten days after any issue or sale of any of said bonds, the applicant shall file with this Commission a certificate of notification showing that such issue or sale has been effected in accordance with the condition imposed by this order and in accordance with the terms and representations in said application, as amended.

It is further ordered, that, if said authorization by the aforesaid State commissions as to said bonds shall be revoked or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2993—Filed, October 19, 1936; 12:42 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of October A. D. 1936.

*IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST  
IN THE STANOLIND-LAW FARM, FILED ON SEPTEMBER 15, 1930,  
BY HOWARD F. GUNTER, RESPONDENT*

*ORDER TERMINATING PROCEEDING AFTER AMENDMENT*

The Securities and Exchange Commission, finding that the offering sheet filed with the Commission, which is the subject of this proceeding, has been amended, so far as necessary, in accordance with the Suspension Order previously entered in this proceeding;

It is ordered, pursuant to Rule 341 (d) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on October 15, 1936, be effective as of October 15, 1936; and

It is further ordered, that the Suspension Order, Order for Hearing and Order Designating a Trial Examiner heretofore entered in this proceeding, be and the same hereby are revoked and the said proceeding terminated.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2990—Filed, October 19, 1936; 12:41 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of October A. D. 1936.

*IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST  
IN THE GULF-QUIS LEASE, FILED ON OCTOBER 1, 1936, BY  
SECOND DEPENDABLE OIL CORP., RESPONDENT*

*ORDER TERMINATING PROCEEDING AFTER AMENDMENT*

The Securities and Exchange Commission, finding that the offering sheet filed with the Commission, which is the subject of this proceeding, has been amended, so far as necessary, in accordance with the Suspension Order previously entered in this proceeding;

It is ordered, pursuant to Rule 341 (d) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on October 10, 1936, be effective as of October 10, 1936; and

It is further ordered, that the Suspension Order, Order for Hearing and Order Designating a Trial Examiner, heretofore entered in this proceeding, be and the same hereby are revoked and the said proceeding terminated.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2996—Filed, October 19, 1936; 12:43 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of October A. D. 1936.

*IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST  
IN THE SUPERIOR-SIBLEY LEASE, FILED ON OCTOBER 1, 1936,  
BY SECOND DEPENDABLE OIL CORP., RESPONDENT*

*ORDER TERMINATING PROCEEDING AFTER AMENDMENT*

The Securities and Exchange Commission, finding that the offering sheet filed with the Commission, which is the subject

of this proceeding, has been amended, so far as necessary, in accordance with the Suspension Order previously entered in this proceeding;

It is ordered, pursuant to Rule 341 (d) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on October 10, 1936, be effective as of October 10, 1936; and

It is further ordered, that the Suspension Order, Order for Hearing and Order Designating a Trial Examiner, heretofore entered in this proceeding, be, and the same hereby are, revoked and the said proceeding terminated.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2997—Filed, October 19, 1936; 12:43 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of October A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE EXCHANGE DRILLING-MILLS FARM, FILED ON OCTOBER 9, 1936, BY ANDREW J. BARRETT, RESPONDENT

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 340 (A)), AND ORDER DESIGNATING TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet described in the title hereof and filed by the respondent named therein is incomplete or inaccurate in the following material respects, to wit:

1. In that in Division III, insufficient data are given in view of the stated dissimilarity between the Mills Lease and Amerada-Brunner Lease with respect to structural position, to justify the comparison used in the estimation of recoverable oil from the Cromwell Sand.

2. In that insufficient data are given with respect to various factors used and comparisons made in the estimation of recoverable oil from the Calvin Sand.

3. In that insufficient data have been given in Division III, assuming a drainage area of 10 acres in the estimation of recoverable oil in the Hunton Lime.

4. In that the computation of recoverable oil on page 5, paragraph 11, Division III, is incorrect.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and hereby is, suspended until the 14th day of November 1936; that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension shall be revoked or continued; and

It is further ordered, that Charles S. Lobingier, an officer of the Commission be, and hereby is, designated as trial examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding commence on the 30th day of October 1936 at 10:30 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said examiner may designate.

Upon the completion of testimony in this matter the examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2334—Filed, October 19, 1936; 12:43 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of October A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE REPOLLO-ADKINS FARM, FILED ON OCTOBER 9, 1936, BY PARK T. GRIMES, RESPONDENT

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 340 (A)), AND ORDER DESIGNATING TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet described in the title hereof and filed by the respondent named therein is incomplete or inaccurate in the following material respects, to wit:

In that in Item 3 of Division III the estimation of recoverable oil is based upon the average production of other properties in the Hendricks Pool some of which are, with respect to structure, differently located and the recovery from which has depended upon the degree of the efficiency of the water drive to which they have been subject.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and hereby is, suspended until the 14th day of November 1936; that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension shall be revoked or continued; and

It is further ordered, that Charles S. Lobingier, an officer of the Commission, be, and hereby is, designated as trial examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding commence on the 30th day of October 1936 at 10:00 o'clock in the forenoon at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said examiner may designate.

Upon the completion of testimony in this matter the examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 2335—Filed, October 19, 1936; 12:43 p. m.]

**UNITED STATES MARITIME COMMISSION.**

**GENERAL ORDER No. 1**

The United States Maritime Commission, acting pursuant to the authority conferred upon it by the Merchant Marine Act of 1936, particularly Section 807 thereof, and finding

that Regulations for filing statements are necessary and appropriate to carry out the provisions of said Act, hereby adopts the Regulations for filing statements<sup>1</sup> under Section 807 of said Act which have been promulgated this day.

By order of the United States Maritime Commission.

TELFAIR KNIGHT, *Secretary.*

OCTOBER 15, 1936.

#### REGULATIONS

PRESCRIBED UNDER PUBLIC NO. 835, 74TH CONGRESS, WITH SPECIFIC REFERENCE TO SECTION 807

By virtue of the authority vested in the United States Maritime Commission by Section 807 of the act entitled, "An Act to further the development and maintenance of an adequate and well balanced American merchant marine, to promote the commerce of the United States, to aid in the national defense, to repeal certain former legislation, and for other purposes" (act of June 29, 1936, Public No. 835, 74th Cong.), and in order to establish uniform procedure under Section 807 of said act, the following Regulations are hereby prescribed:

#### Part I.—Required Certificates

**ARTICLE I. Certificates of Shipbuilder or Ship Operator.**—Every shipbuilder or ship operator holding or applying for a contract under the provisions of the Merchant Marine Act of 1936 shall certify to the Commission, in the manner and form hereinafter prescribed—

- (a) the subject matter of any retainer or employment;
- (b) the nature and character of such retainer or employment; and
- (c) the amount of compensation received or to be received by the person so retained or employed, directly or indirectly, in connection therewith—

in any and every instance where any person is employed or retained by such shipbuilder or ship operator, or by any subsidiary, affiliate, associate, or holding company of such shipbuilder or ship operator, to present, advocate, or oppose any matter affecting any such shipbuilder or ship operator, or any subsidiary, affiliate, associate, or holding company thereof, before the Congress or any Member or committee thereof, or before the Commission, or any other governmental agency, or any member, officer, or employee thereof.

**SECTION 1. General Data.**—Every certificate filed by any shipbuilder or ship operator with the Commission shall indicate:

- (a) the name of such shipbuilder or ship operator;
- (b) the type of business unit in which it is organized, including the state of origin;
- (c) the address of the principal place of business;
- (d) the nature of the business in which it is engaged;
- (e) a full statement of relationship status, showing the relationship, if any, of the certifying shipbuilder or ship operator to any person or organization which creates or tends to create between them the status of subsidiary, affiliate, associate, or holding company;

*Provided*, certain basic information may be placed on file with the Commission, as hereinafter described, and thereafter it may be incorporated by reference and without repetition in any subsequent certificate.

**SECTION 2. Subject Matter.**—The subject matter to be certified by the shipbuilder or ship operator shall include any item, cause, or subject concerning which any person retained or employed as described in the Act may undertake or be instructed by his employer to undertake, as part of his employment, to present, advocate, or oppose before any governmental agency.

<sup>1</sup>The statements (forms) have been filed with the Division of the Federal Register; copies are available upon application to the United States Maritime Commission.  
MC Reg. No. 1

**SECTION 3. Nature and Character of Employment.**—The certificate of the shipbuilder or ship operator as to the nature and character of the retainer or employment shall indicate:

- (a) the name of the person retained or employed;
- (b) his relationship to the certifying organization, naming his office or position, if any;
- (c) the duration of such employment, whether permanent, temporary, regular, intermittent, or special;
- (d) the basis of his compensation, whether full time salary or basic retainer fee, the type of supplement, if any, including bonus, commission, or special fees; and
- (e) the nature and extent of his expense allowance, if any, including travel, subsistence, entertainment, or miscellaneous extras.

**SECTION 4. Amount of Compensation.**—The certificate of the amount of compensation to be filed by the shipbuilder or ship operator shall show as nearly as possible the full monetary return to the person employed or retained during the period covered, the amount received, and the amount to be received by him, directly or indirectly; and it shall contain a statement showing whether the subject matter in respect of which the certificate is made was incidental to the person's regular employment, or whether such subject matter represented a special assignment in connection with which the entire compensation was paid.

**ARTICLE II. Certificate of Person Employed.**—Every person employed or retained by any shipbuilder or ship operator holding or applying for a contract under the provisions of the Merchant Marine Act of 1936, or employed or retained by any subsidiary, affiliate, associate, or holding company of such shipbuilder or ship operator, to present, advocate, or oppose any matter affecting any such shipbuilder or ship operator, or any subsidiary, affiliate, associate, or holding company thereof, before the Congress or any Member or committee thereof, or before the Commission, or any other governmental agency or any member, officer, or employee thereof, shall file with the Commission, within ten days after the close of each calendar month during such retainer or employment, in the manner and form hereinafter prescribed, a statement of the expenses incurred and the compensation received by him during such month in connection with such retainer or employment.

**SECTION 1. Compensation Received.**—The certificate required to be filed by the person retained or employed shall account for the full, actual monetary return to him for the period covered, including and identifying salary, basic retainer fee, supplemental payment, if any, including bonus, commission, or special fees, and all expense allowance, identified as travel, subsistence, entertainment, or miscellaneous extras.

**ARTICLE III. Orders in the Public Interest.**—Any shipbuilder or ship operator holding or applying for a contract under the provisions of the Merchant Marine Act of 1936, and any person employed or retained by any such shipbuilder or ship operator, or by any subsidiary, affiliate, associate, or holding company thereof, to present, advocate, or oppose any matter affecting any such shipbuilder or ship operator or any subsidiary, affiliate, associate, or holding company thereof, before the Congress or any Member or committee thereof, or before the Commission, or any other governmental agency or any member, officer, or employee thereof, shall certify to the Commission the subject matter and the nature and character of any such retainer or employment and the amount of compensation paid or agreed to be paid and the expense incurred therefor, in such further form and detail as the Commission may by order, from time to time, prescribe as necessary or appropriate in the public interest.

#### Part II.—Permissible Certificates

**ARTICLE I. (Registration by Shipbuilder or Ship Operator).**—Any shipbuilder or ship operator may file with the Commission in permanent form data as hereinafter described, and may thereafter incorporate any or all of such data in additional certificates by reference thereto.

**SECTION 1. Identity.**—Any shipbuilder or ship operator may place on file with the Commission a statement showing:

- (a) its name;
- (b) the address of its principal place of business;
- (c) the nature of the business in which it is engaged;
- (d) the type of business unit in which it is organized, including the state of origin.

**SECTION 2. Relationship Status.**—Any shipbuilder or ship operator may place on file with the Commission a full statement of its relationship to any person or organization which creates or tends to create between them the status of subsidiary, affiliate, associate, or holding company; or, it may certify to the Commission the absence of any such relationship.

**SECTION 3. Regular Employees.**—Any shipbuilder or ship operator may file with the Commission a list of all regularly employed officers, agents, attorneys, or employees, who may be expected to have dealings with the government or some agency thereof. For each person so listed, there shall be certified:

- (a) his name and address;
- (b) the position held by him with the certifying shipbuilder or ship operator;
- (c) the duties inherent in the office or position so held by him; and
- (d) the length of his appointment to such position.

**SECTION 4. Routine Certificates.**—Whenever any shipbuilder or ship operator shall have complied with the terms of the three preceding sections of this article, such shipbuilder or ship operator may certify to the Commission the name or names of its regularly employed officers, agents, attorneys, or employees to whom will be assigned ordinary correspondence and communication with the Commission in the regular course of business. As to such shipbuilder or ship operator, routine correspondence and communication in the regular course of business shall not be considered a subject matter of employment in respect of which certificate shall be made.

**SECTION 5. Designation of Subject Matter.**—The Commission may from time to time, designate in advance of consideration a subject matter in respect of which each shipbuilder or ship operator shall certify any person retained or employed, and in respect of which any person so retained or employed shall certify expenses incurred and compensation received.

**SECTION 6. Continuing Register.**—Any shipbuilder or ship operator who shall elect to comply with Sections 1, 2, and 3 of this Article may certify to the Commission a continuing register of persons retained or employed within the meaning of the Act together with the nature and character of their retainer or employment and the amount of compensation. Any shipbuilder or ship operator who shall so elect to certify a continuing register shall undertake to keep on file with the Commission the name or names, together with the additional data specified in Section 3 of this Article, of any and all persons retained or employed to present, advocate, or oppose any matter affecting such shipbuilder or ship operator before any governmental agency. In addition to the data hereinabove specified, such shipbuilder or ship operator shall file with the Commission, for each person certified, an explanation of the exact basis and amount of compensation paid to him, defining, in each instance:

- (a) salary, as annual, monthly, or per diem;
- (b) supplemental pay, if any, through bonus, commission, special retainers or fees; and
- (c) expense allowances, including travel, subsistence, entertainment, and miscellaneous extras.

**SECTION 7. Memorandum Certificates.**—Upon compliance with the preceding section any shipbuilder or ship operator may thereafter, as to any subject matter selected by it or designated by the Commission, file with the Commission a

memorandum stating the subject matter under consideration, naming the officer, agent, attorney, or employee to whom such subject matter has been assigned, and signifying whether or not there has been any change in the basis of compensation since the same was certified, and if so, what. Such memorandum certificate shall be deemed full compliance (by the shipbuilder or ship operator) with the requirements of these regulations.

**ARTICLE II. Registration of Person Employed.**—Any person employed or retained by any shipbuilder or ship operator may file with the Commission data as hereinafter described, and may thereafter incorporate any or all of such data by reference in additional certificates.

**SECTION 1. Basic Certificate.**—Such person may place on file with the Commission a statement showing:

- (a) the shipbuilder or ship operator by whom he is employed;
- (b) the nature and character of his employment, indicating the position held, the duties assigned, the probable duration, and the basis of compensation as defined above in Section 1, Article II, Part I.

**SECTION 2. Memorandum Certificates.**—Upon compliance with the preceding section any person employed or retained by any shipbuilder or ship operator who has complied with Sections 6 and 7 of Article I, Part II, above, may thereafter, as to any subject matter to which he may be assigned, file with the Commission a memorandum stating the subject matter under consideration, naming the shipbuilder or ship operator by whom he is employed, and signifying whether or not there has been any change in the basis of his compensation since his Basic Certificate was filed, and if so, what change. Such person shall then note the actual monetary return to him for that portion of the preceding month which was devoted to the subject matter, including and identifying salary, basic retainer fee, supplemental payment, if any, including bonus, commission, or special fees and all expense allowances, identified as travel, subsistence, entertainment, or miscellaneous extras. Such memorandum certificate shall be deemed full compliance (by the person retained or employed) with the requirements of these regulations.

By order of the United States Maritime Commission.

TELFORD KNIGHT, *Secretary.*

Adopted October 14, 1936.

[F. R. Doc. 2375—Filed, October 19, 1936; 9:51 a. m.]

## UNITED STATES TARIFF COMMISSION.

### PUBLIC NOTICE

#### POSTPONEMENT OF HEARING ON CIGARETTE-MAKING MACHINES AND PARTS

[Section 337, Docket No. 10]

*Investigation by the United States Tariff Commission for the Purposes of Section 337 of the Tariff Act of 1930*

**In the Matter of Investigation of Alleged Unfair Methods of Competition or Unfair Acts in the Importation or Sale of Cigarette-Making Machines and Parts Thereof**

The Tariff Commission on this 16th day of October 1936 announces that the public hearing heretofore announced for October 20, 1936, is, at the request of parties interested, now postponed until 10 o'clock a. m. on the 17th day of November 1936.

By order of the United States Tariff Commission this 16th day of October 1936.

[SEAL]

SIDNEY MORGAN, *Secretary.*

[F. R. Doc. 2333—Filed, October 17, 1936; 11:41 a. m.]